

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Richmond Division

IN RE:)	
)	
JAMES HENRY HAWKINS)	Case No. 20-30048-KLP
)	Chapter 13
Debtor)	

JAMES HENRY HAWKINS)	
)	
Plaintiff)	
)	
v.)	APN: 20-_____
)	
WESTERN DEVELOPMENT, LLC)	
a Virginia limited liability company)	
Serve: Karen Bennett, R/A)	
3610 South Place)	
Alexandria, VA 22309)	
)	
and)	
)	
JOSEPH JENKINS, JR. FUNERAL)	
HOME, INC., a Virginia corporation)	
Serve: Meade A. Spotts, R/A)	
411 East Franklin St., Suite 611)	
Richmond, VA 23219)	
)	
Defendants)	

James E. Kane (VSB #30081)
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Counsel for Plaintiff

COMPLAINT TO DETERMINE THE VALIDITY, PRIORITY OR EXTENT OF LIENS

COMES NOW, the Plaintiff, by counsel and respectfully represents unto the Court the following:

1. The jurisdiction of this Court is founded upon 11 U.S.C. § 1322 and Rule 7001 of the Federal Rules of Bankruptcy Procedure.

2. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

3. The Plaintiff is the Debtor in the above captioned Chapter 13 case, which case was filed on January 3, 2020.

4. The estate of the Plaintiff includes an interest in real estate known as 6819 Silliman Drive, Chesterfield, VA 23832, more particularly described as:

All that certain lot, piece or parcel of land, with improvements thereon, lying and being in Clover Hill District, Chesterfield County, Virginia, known as Lot 18 and the western portion of Lot 17, Block C, Section A, Belmont Hills, as shown on plat by J.K. Timmons, Civil Engineer, dated August 20, 1965, and recorded in Plat Book 15, pages 5, 6, and 7 in the Clerk's Office of the Circuit Court of the County of Chesterfield, to which plat reference is made for a more particular description.

("Property").

5. There is a recorded first deed of trust against the Property by U.S. National Bank/Select Portfolio Servicing, Inc. ("US Bank"), which at the time of the filing of this case had an approximate balance of \$181,476.00, and which deed of trust is dated November 28, 2006 and is recorded in the Clerk's Office of Chesterfield County Circuit Court in Deed Book 7491 at Page 355 ("First Deed of Trust").

6. US Bank has recorded a second deed of trust dated December 16, 2008 against the Property that secures its promissory note, which at the time of the filing of this case had an

approximate balance of \$42,432.00, and which deed of trust November 28, 2006 and is recorded in the Clerk's Office of Chesterfield County Circuit Court in Deed Book 7491 at Page 377 ("Second Deed of Trust").

7. Defendant Western Development, LLC has docketed a judgment lien against the Property January 2, 2019 and is recorded in the Clerk's Office of Chesterfield County Circuit Court in Judgment Book 432 at Page 808, which has an approximate payoff of \$106,436.00 ("Western Judgment").

8. Defendant Joseph Jenkins, Jr. Funeral Home, Inc. has docketed a judgment lien against the Property May 11, 2011 and is recorded in the Clerk's Office of Chesterfield County Circuit Court in Judgment Book 307 at Page 43 ("Jenkins Judgment").

9. Upon information and belief, the value of the Property is \$219,800.00 which is less than the payoff of the promissory notes secured by First Deed of Trust and Second Deed of Trust. A copy of the current assessment on the Property is attached hereto as Exhibit "A".

10. Based upon the value of the Property and the balances of the notes secured by the First Deed of Trust and the Second Deed of Trust, the Western Judgment and the Jenkins Judgment are both fully unsecured.

WHEREFORE, the Plaintiff respectfully requests that the Court enter an Order declaring the Western Judgment and the Jenkins Judgment as fully unsecured, that the Plaintiff be permitted to treat Western Development, LLC's and Joseph Jenkins, Jr. Funeral Home, Inc. allowed claims as unsecured in the Chapter 13 Plan herein, that the Western Judgment and the Jenkins Judgment be released against the Property, and for such other relief as the Court may deem appropriate.

Dated: January 20, 2020

Respectfully Submitted,

JAMES HENRY HAWKINS

By: /s/ James E. Kane

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6819 SILLIMAN DR

Parcel ID: 766692618100000

Real Estate Account: 324877001

Tax Account:

*

Overview

2019 Assessment	Last Sale (11/28/2006)
\$219,800.00	\$214,950.00
* Number of lots: 2	
Property Info	
Parcel ID: 766692618100000	
Real Estate Account: 324877001	6819 SILLIMAN DR
Property Class: SINGLE-FAM.RES.(URBAN)	CHESTERFIELD, VA 23832
Magisterial District: DALE	SINGLE-FAM.RES.(URBAN)
Subdivision: BELMONT HILLS	
Deeded Acreage: N/A	
Legal Description	
BELMONT HILLS L 18 BK C SEC A	

				0	0			0	0
Residential Buildings									
Building 1 - 1 STORY TRADITIONAL (SINGLE DWELLING)									
7 room(s) 3 bedroom(s) 2 bathroom(s) 1 half bath(s) 1566 ft ² 0 ft ² unfinished									
FULL DAYLIGHT BASEMENT 783 ft ² 783 ft ² unfinished									

General Description	Building History	Construction Details	Heating/Cooling
Use: SINGLE DWELLING	Year Built: 1975	Foundation: BRICK/BLOCK	Heating: ELECT. & HEAT PUMP
Stories: 1 STORY	Year Added: 0	Exterior: BRICK/WOOD SIDING	Air Conditioning: 1 unit(s)
Style: TRADITIONAL	Year Remodeled: 0	Roof: COMPOSITION SHINGLE	Chimneys: 1 BRICK CHIMNEY 1 FIREPLACE
Construction: WOOD FRAME	Percent Complete: 100%	Dormers: NONE	
Lower Level: NO LOWER LEVEL		Interior: DRY WALL	